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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,639	12/08/2003	Gary Sherrell	2230-1-3	2949

996 7590 01/30/2007  
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EXAMINER
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MAI, TRI M

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/730,639

Applicant(s)

SHERRELL ET AL.

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 13, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/06/04

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3781

1. Claims 1-6, 13, and 15-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.

Claim 14 is being examined since it seems that the claim is readable on the elected species.

With respect to applicant's traversal that the examiner can search other species without serious burden. It is submitted that the examination of other embodiments requires serious burden on the examiner, e.g., the add-on support as set forth in claim 1 require the examiner to search separately in class 280 for separating wheel support. Furthermore, the embodiment in claim 1 does not require the specificities of the case. Furthermore, a detail search is required for the specificities of the case with respect to the size.

2. Claims 7, 9, 10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Latshaw (6164425), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Latshaw in view of Karmark (4630837). Latshaw teaches a travel case having two edge wheels 31, 32, a handle 43, an extendable support and a wheel end to title a side of the travel case, and caster wheel.

Latshaw meets all claimed limitations except for the one side being greater than 40 inches. It would have been obvious to one of ordinary skill in the art to provide the case of Latshaw being greater than 40 inches to provide the desired size for the container.

With respect to the horizontal position of being less than 45 degrees, note that at least the bottom portion of the luggage in Latshaw is less than 45 degrees from the horizontal position of the bottom of the case.

Art Unit: 3781

In the alternative, it would have been obvious to one of ordinary skill in the art to provide the angle of about 45 degrees as taught by Karmark (col. 3, ln. 23) to provide the desired angle for holding the case.

3. Claim 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Latshaw rejection, as set forth above, and further in view of Tiramani (6497311). It would have been obvious to one of ordinary skill in the art to make the device from either soft or hard as taught by Tiramani, col. 2, ln. 53-55) to provide the desire material for the luggage.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawshaw rejection, as set forth above in paragraph 7, and further in view of Kuo (6182981). It would have been obvious to one of ordinary skill in the art to provide caster wheels with pivot axis to enable one to control the luggage easily.

5. Claims 7, 9, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scoglio (6634496) in view of Liang (5873439). Scoglio teaches luggage having wheels at 30, a handle at 40. It would have been obvious to one of ordinary skill in the art to provide a support as taught by Liang to enable one to support the device in a tilt angle easily. Note that the device in Liang can support various angles as portion 30 is slidably adjustable along portion 71. With respect to the size of the case, it would have been obvious to one of ordinary skill in the art to provide the case of Scoglio being greater than 40 inches to provide the desired size for the container.

With respect to the handle, the handle in on one of the top surfaces as claimed.

Furthermore, note that the handle meets the claimed limitation when it is retracted.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Scoglio rejection, as set forth above, and further in view of Tiramani (6497311). It would have been obvious to one of ordinary skill in the art to make the device from either soft or hard as taught by Tiramani, col. 2, ln. 53-55) to provide the desire material for the luggage.

7. Claims 10-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scoglio rejection, as set forth above in paragraph 5, and further in view of Liang (6082510). It would have been obvious to one of ordinary skill in the art to provide caster wheels with pivot axis, note fig. 6 to enable one to control the luggage easily.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

T M<sub>a</sub>

**TRI M. MAI  
PRIMARY EXAMINER**